

FAIRFAX OPEN SPACE COMMITTEE

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REPORT ON PROPOSED DEVELOPMENT OF 164 WILLOW AVE., FAIRFAX, CA

TO: FAIRFAX PLANNING AND BUILDING SERVICES AND THE FAIRFAX PLANNING COMMISSION

FROM: THE FAIRFAX OPEN SPACE COMMITTEE'S SUBCOMMITTEE ON THE 164 WILLOW AVE. DEVELOPMENT PROPOSAL

DATE: JANUARY 9, 2015

This *ad hoc* subcommittee of the Fairfax Open Space Committee (FOSC) was developed on an expedited basis and this report includes input from FOSC members Mimi Newton, Jacob Feickert, Susan Adams, Jack Judkins and Nancy Morita (the *Ad Hoc* Subcommittee). We appreciate the Planning Commission and Town Staff's agreement to postpone consideration of the development proposal for 164 Willow Ave. from December's Planning Commission Meeting to allow the members of FOSC to review the proposal and provide these comments to the Commission in accordance with the Fairfax General Plan's Open Space Element Programs OS-1.4.1.1 and 1.4.1.2.

Background

The reason FOSC requested the opportunity to review the development proposal for 164 Willow Ave. is because this property was identified in the Open Space Inventory that was developed and became a part of the Open Space Element of the General Plan. This inventory consists of underdeveloped and undeveloped land parcels in the Fairfax Planning Area that have intrinsic open space value. The list of open space properties on the inventory is at Appendix OS-1 of the General Plan.

Open Space Element Policy OS-1.4.1 states that any proposed development of a parcel in the inventory shall be reviewed by FOSC. To implement that Policy, Program OS-1.4.1.1 directs the Planning and Building Services Department to inform applicants proposing development of parcels in the inventory that their application will be reviewed by FOSC. Planning and Building Services is also directed to encourage the applicant to contact FOSC before submitting their application. Finally, this program directs FOSC to make a good faith attempt to meet with the applicant to discuss their application.

In addition, Open Space Element Program OS-1.4.1.2 directs FOSC to review each application for development of parcels in the inventory, and provide a written evaluation to the appropriate Planning and Building Services department before the end of the Planning Department's 30-day response window for development applications.

Although the Town Manager did write letters to many of the property owners whose land is listed on the Open Space Inventory in the summer of 2013, not every parcel was accurately identified and not every landowner was notified. It does not appear that any notice of the Open Space Element's requirements for parcels on the Open Space Inventory was provided to the owner of 164 Willow Ave. FOSC will be working with Planning and Building Services to identify any other Inventory parcel owners who still need to be provided notice of these Open Space Programs over the next few months. In the meantime, the *Ad Hoc* Subcommittee has endeavored to provide the review of the proposed development of 164 Willow Ave. that was envisioned by the General Plan without causing undue delay to the planning process. Unfortunately, we were unable to connect with the landowner or schedule a meeting to meet with them prior to the submittal of this Report.

Basis for this Report

Our review of the proposed development was based on: the December 18, 2014 Staff Report from the Fairfax Department of Planning and Building Services to the Planning Commission; the Vegetative Fuels Management Plan and Tree Protection Plan dated February 26, 2014 and the attached April 1, 2014 approval by the Ross Valley Fire Department; the Geotechnical Investigation Report dated March 2, 2014; input from residents in the neighborhood; and on-site visits by members of the FOSC.

Evaluation of 164 Willow Ave. Development Proposal on Open Space

FOSC initially recommended this property for listing on the Open Space Inventory for a number of reasons, including: (1) its heritage and other oak trees; (2) its madrone trees; (3) its connectivity to Hawthorne Canyon Open Space; and (4) the abundance of wildlife observed on the parcel and its utility as a wildlife corridor.

The parcel is described in the arborist's report as grassland, chaparral, and oak/bay/madrone/toyon trees and understory. This description fails to reference the fact that the trees on the property are particularly beautiful. We note that the large coast live oak [identified as Tree #22] provides a majestic canopy that contributes significantly to the visual enjoyment of the area not only by people living immediately adjacent to the property but throughout the neighborhood. Wildlife observed or detected on and around the property include deer, foxes, at least two types of owls, including Great Horned owls, and woodpeckers. A May 2008 assessment of bird species on the nearby 98-acre Wall Property could provide helpful information about some of the additional bird species in the area:

<http://fairfaxopenspace.com/sites/default/files/Wall%20Property%20Bird%20List%20-%20May%202008%20-5-08%20Wall%20Property%20Bird%20List.pdf>.

We see no mention that the landowner engaged the services of a qualified biologist or botanist to determine if any special status species are present. We question whether the "Categorical Exemption from CEQA" is appropriate unless special status species have been demonstrated to not be on site.

We had some difficulty in reconciling the Staff Report with the Arborist's report in term of the number of oak trees to be removed under the proposal. The Arborist's report lists (of the large trees, 12" or more in diameter) 8 coast live oaks, (*quercus agrifolia*) to be removed, including Tree #22, which contributes significantly to the canopy. The dimensions, which include a 38" diameter oak, a 36" diameter oak, a 30" diameter oak, and an 18" diameter oak, are for the tree's diameter at breast height, so these are pretty big trees and not all of them appear to be accounted for in the Staff Report.

In addition, the Staff Report mentions "100 cubic yards of material" to be excavated in a landslide hazard zone. But, on Sheet C-1, the grading plan states that there will be "350 cubic yards of excavation to be removed from the site" as referenced in the Oct. 27, 2014 letter from Ray Wrysinski, Town Engineer, to Linda Neal, Principal Planner. As the difference between 100 and 350 cubic yards is significant, we request some clarification on that point.

We appreciate the landowner's plans to safeguard the native vegetation uphill of the proposed new building footprint and the fact that the plan proposes leaving the dominant and some co-dominant trees at the top of the property. This will lessen the visual impact of development on the community and for those enjoying the adjacent preserve. It will also help to suppress the exotic broom in the area.

The Staff Report indicates that a significant portion of the parcel will remain undeveloped (preserves natural vegetation, slope and thereby minimizes runoff and erosion). No landscaping plan was submitted, apparently based on the expectation that no development will occur on that portion of the parcel where the home's footprint will not be. However, there are no assurances that the undeveloped area will remain so permanently, and thus, there is no way to assure that the proposed project will not "violate" the terms of the permit and design review approval in the future.

As a result, we recommend that Town Staff and the Planning Commission consider exploring possible means for assuring that the purposes of the Hill Area Residential Permit and design review approval are met in perpetuity. While FOSC does not have a specific recommendation for how to effectuate such a requirement, a special permit condition, for example, could be enforced by the Town. A deed restriction as a condition would be another alternative and it would be recorded. Either way, the condition or restriction would need to delineate what is prohibited and what is allowed, such as no additional structures being built on the uphill side of the property. Additional requirements should be considered that might address, for example, play structures, fencing or retaining walls, removal of native and non-native vegetation, and diseased or damaged trees posing a threat to property or persons. For example, we would also like to ensure that any fencing of the property produces an un-obtrusive fence line, something that blends with the surroundings from a distance.

Again, this *Ad Hoc* Subcommittee of FOSC appreciates the opportunity to comment on this proposed development plan. One or more of us plan to be in attendance at the January 2015 Planning Commission meeting to answer any questions you may have about this Report.

Nadia S. Alquaddoomi, ISA Certified Arborist

1025 Guerrero Street • San Francisco, CA 94110
Phone: (510) 705-3141 • E-Mail: NAlquaddoomi@WRTdesign.com

Date: February 9, 2015

Linda Neal
Principal Planner
Town of Fairfax
142 Bolinas Road
Fairfax, California 94930

Dear Ms. Neal:

I have been consulted to perform a peer-review of the of the arborist report by Dan McKenna, dated February 6, 2014. Per the direction of the Planning Commission, dated January 20, 2015, the review shall focus on assessing the impacts of proposed construction on Oak Tree #22 (*Quercus agrifolia*); presenting recommendations for construction techniques and protective measures by which Oak Tree #22 can be preserved in place; reviewing and verifying the recommendations for all tree removals on the property; and reviewing potential impacts of the Oaks on the adjacent neighbors property and providing recommendations to mitigate such impacts. I visited the site at 164 Willow Ave to assess the trees in question. The following represents my professional review and recommendations:

In its current location, the house will significantly impact the root system of Oak Tree #22 and will likely lead to both serious decline in health and structural instability of the tree. This is due primarily to excavation and disturbance of large structural and feeder roots too close to the tree. If the house is kept in its current location, it is recommended that the tree should be removed in its entirety to prevent risk of tree failure. **In order to preserve Oak Tree #22 in place, it is recommended that the house be moved 5 feet West, towards the street, to prevent excessive excavation and root disturbance.** Oak Tree #22 should be deadwooded and, furthermore, it is recommended that the large scaffolding branch running along the North side of the proposed house be removed due to excessive decay at the scaffold's connection. This branch poses a significant risk for failure.

The following describes construction techniques and protective measures for preserving Oak Tree #22: Fence a tree protection zone (TPZ) sufficiently large enough to protect the tree and roots from disturbance. Construction activities shall not occur within the TPZ that may lead to soil compaction, mechanical damage to the trunk or limbs, severance of critical roots, soil disturbance/grade change, or changes in drainage. Within the TPZ, it is recommended to mulch with wood chips 4 inches deep (leaving the trunk clear of mulch). When areas under the tree canopy cannot be fenced, a temporary root buffer should be used and should cover the root zone and remain in place until the final stage of grading. As the tree is located on a steep slope, it is recommended that erosion control barriers be installed outside the TPZ to prevent erosion within the TPZ.

EXHIBIT # C

Root Severance: Roots that are encountered shall be cut to sound wood and repaired. Roots 2-inches in diameter and greater must remain injury free.

Excavation: Excavation shall be performed with equipment sitting outside the TPZ. Avoid excavation during hot, dry weather. During excavation, it is the duty of the contractor to tunnel under any roots 2-inches in diameter or greater. Prior to excavation for foundation/footings/walls, grading or trenching within the TPZ, roots shall first be severed cleanly 1-foot outside the TPZ and to the depth of the future excavation. The trench must then be hand dug and roots pruned with a saw, sawzall, narrow trencher with sharp blades or other approved root pruning equipment.

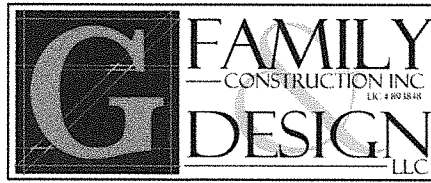
Soil Compaction: Compaction of the soil is the largest killer of trees on construction sites due to suffocation of roots and ensuing decline of tree health. If an inadvertent compaction event to the upper 12-inch soil horizon within the TPZ has occurred, the soil shall be loosened by one or more of the following methods to promote favorable root conditions: vertical mulching, soil fracturing, core-venting, radial trenching or other method approved by the project arborist.

I have reviewed the trees to be removed and concur with the recommendations for removal in the original report by Dan McKenna.

The TPZ of the neighbor's Oak Trees adjacent to the 164 Willow property shall be determined and construction activities related to this Oaks shall be the same as those outlined above for Oak Tree #22.

Sincerely,

Nadia Alquaddoomi
ISA Certified Arborist, WE-105151A



February 9th, 2015

The Town of Fairfax
Attn: Linda Neal – Principal Planner
142 Bolinas Road,
Fairfax, CA 94930

TOWN OF FAIRFAX

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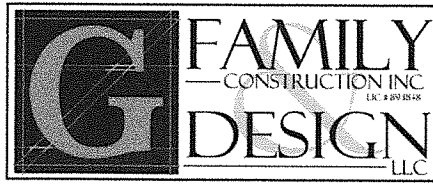
RE: Notice of Planning Commission Action: 164 Willow Avenue; 14-47

Dear Linda Neal & the Fairfax Planning Commission,

This letter is to accompany the plans for resubmittal for parcel APN 001-193-13 on Willow Avenue herein referred to as the 'Kalman Residence'. During the hearing on the 15th of January the surrounding neighborhood as well as members of the Planning Commission had brought to attention various questions regarding the development of the parcel at 164 Willow Avenue. Linda Neal provided a summary of these questions to the design team on the 20th of January, which outlined six (6) specific questions to address. Below are the responses to these six (6) questions:

1. A peer review of the arborist report previously prepared by Dan McKenna has been provided and is attached within this letter. Nadia S. Alquaddoomi, ISA Certified Arborist WE-105151A, completed this peer review. Within Nadia's report are answers to the following questions: re-evaluating the impact of the house at its current location on tree #22, determining if construction techniques and protective measures would save tree #22 with the house in its current location, address how far the house would need to be moved forward to retain tree #22, a review of all trees to be removed on-site and a review of the neighbor's oak trees adjacent to the house.
2. The peer review by Nadia Alquaddoomi, as well as additional discussions held with Dan McKenna, indicated that by moving the house forward and increasing the TPZ (tree protection zone) would cut-back on the risk of significant failure by tree #22 during construction. By relocating the house forward and taking measures to perform early tree maintenance during construction tree #22 will stand in better health and has a better chance of continuing a healthy life-span. In order to achieve this, the 3rd parking space is now provided parallel to the property line of 164 Willow Avenue. By moving the house forward and making the 3rd parking space parallel the height of the driveway retaining walls also decreases. This decrease results in a driveway retaining wall that is 2' at it's lowest point near the street curb and around 8' +/- at its highest point next the garage wall. The stairs will still maintain a code compliance height of 7-3/8" rise by a 11-1/4" run.
3. Included on the site plan and elevations are proposed locations for planting beds along the driveway retaining wall. The plant species to occupy this planter is still being discussed and evaluated with the client, but the client is intending to use the planting beds for jasmine or rosemary, which will crawl down the wall.
4. An early construction management plan is described below to help address some of the concerns related to the project once construction is started. Construction will only take place during the designated hours specified within the town code, being limited from 8am to 6pm Monday through Friday – 9am to 4pm Saturday and Sundays and with no construction taking place on holidays. At this time the design team is estimating that Willow Avenue will not require closure to allow for the excavation of the driveway and accompanying upslope retaining walls. If a road closure will need to be applied for then this will need to be verified with Public Works before taking place. While closing down Willow Avenue to through traffic does impact the neighborhood, residences located behind 164 Willow Avenue will still have access to their homes via a detour at Maple Avenue – Live Oak Avenue – Chester Avenue. The construction team plans to mitigate this detour further by proposing

EXHIBIT # B



that the large amounts of excavation take place after 9am to allow time for residences to leave in the morning before the road closure occurs. Any postings regarding road closures will be posted 48 hours prior to the road closure and detour signs will be placed at appropriate intersections to show the flow of traffic.

5. During the Planning Commission hearing from January 15th its was brought to the attention of the Planning Commission that neighbors along Willow Avenue considered the home at 164 Willow Avenue to be over-built for the intended lot, and their opinion was that such a lot was developed with a 'summer cabin' as its intended building. While the definition of a 'summer cabin' does not dictate size, as it draws more attention to its use, this proposed development is minimal with only 1,063 sq. ft. of livable space allotted. This size home is similar to other homes along Willow Avenue, and minimally develops a lot that could have been developed to serve a multi-family dwelling which would've have significantly increased construction on-site. The concern regarding the size of the structure arose from the combined side-yard setback not being accomplished and requiring a variance. The combined side-yard setback of 20' feet is rather hard to accomplish considering the lot-size and shape. The lot is only 40' at it widest point, which results in a buildable area that is around 30' wide when five foot side-yard setbacks are maintained. With the garage being 20' wide the additional 5' is maintained at the south side, but is not maintained along the north side due to the proposed stairs. The reduction of 2' from the house would not serve purpose as clearances for the bathroom and stairs would become tighter and would then create issues with conforming to the CRC requiring a greater redesign. Furthermore, by reducing the house footprint by 2', the length and retaining walls required to support the house would increase causing further disturbance to vegetation up-hill.
6. While the client has every intention of keeping the required 12' rear-yard setback, we cannot support the call for additional action to be taken to reduce the possibility of the client later developing the remaining 144' +/- that fall within the required setbacks. While the client has not proposed to develop a backyard or garden at this time, the client would still like to be given the freedom to explore possible options in the future as long as these designs meet the criteria specified within the Town Ordinance and General Plan. While it does serve the Open Space District and other members of the community to limit the extent in which this area is developed this presents an unfair hardship that has not been imposed upon existing residences or developments along the Willow Avenue corridor. We believe that by maintaining the required setbacks as set forth within the Town Code and Ordinance our client has complied within these guidelines and that further measures would not serve the intent or desires of the Town Council and accompanying staff.

The design team would like to thank the Planning Commission, town staff and other members not mentioned herein for their input and contribution to this public discussion. We look forward to working together to address these measures and continue forward with the project. As previously stated the Planning Department and Planning Commission have both recommended approval given that he above has been addressed. We feel we have adequately responded to the inquiries presented above and that granting approval of this project would not be considered a hindrance on the surrounding area.

David Grabham (CEO/Designer)
G Family, Inc. (General Construction)
G-Design, LLC. (Design Firm)
Gfamilyconstruction.com (Website)
David@gfamilyconstruction.com (Email)
415-261-7643 (Cell)
415-444-0573 (Office/Fax)

Linda Neal

From: Ryan Connelly <ryan@gdesignpro.com>
Sent: Tuesday, March 10, 2015 2:45 PM
To: Linda Neal
Subject: RE: 164 Willow Avenue
Attachments: 03-10-2015-Reply to Notice of Planning Commission Action.pdf

Hi Linda,

Please find responses to the two emails received earlier this morning regarding the application for 164 Willow Avenue.

You are correct in that the house been moved 6 feet closer to front property line but will maintain a 7'+/- foot setback from front north corner closest to Willow Avenue. The south front corner will be 18'+/- away from the front property line, which allows for the 3rd parking space being parallel. This allows the 3rd parking space to be on the clients property and within the property lines, but does not encroach upon the existing curb & gutter. The overall height of the building changed from 40'-4 7/16" to 39'-1 11/16", with the highest point above grade changing from 28'-7/16" to 26'-7 1/8".

Attached is a PDF of the new 'RE: Notice of Planning Action' dated 3-10-2015. This PDF will address the first set of questions received this morning providing additional information about: the the plans to reduce the impact to the neighborhood during construction and how the reduction of the house footprint by 2 feet would create further issues onsite with regards to code compliance and parking. Included below are the two changed responses:

4. An early construction management plan is described below to help address some of the concerns related to the project once construction is started. Construction will only take place during the designated hours specified within the town code, being limited from 8am to 6pm Monday through Friday – 9am to 4pm Saturday and Sundays and with no construction taking place on holidays. At this time the design team is estimating that Willow Avenue will not require closure to allow for the excavation of the driveway and accompanying upslope retaining walls. If a road closure will need to be applied for then this will need to be verified with Public Works before taking place. While closing down Willow Avenue to through traffic does impact the neighborhood, residences located behind 164 Willow Avenue will still have access to their homes via a detour at Maple Avenue – Live Oak Avenue – Chester Avenue. The construction team plans to mitigate this detour further by proposing that the large amounts of excavation take place after 9am to allow time for residences to leave in the morning before the road closure occurs. Any postings regarding road closures will be posted 48 hours prior to the road closure and detour signs will be placed at appropriate intersections to show the flow of traffic. The construction team plans to car-pool to the site, with 2-3 team members per vehicle throughout the project. During the initial excavation the construction team will be limited to 2-3 team members from the construction company and 2-3 team members from the excavating company (this number of employees may increase based upon safe operation of the excavating equipment, but an early discussion held indicated a minimum of 2-3 employees). Once the excavation has taken place for the proposed garage and driveway the construction team may increase to 2 vehicles with 2-3 team members per vehicle. Any deliveries or departures from the site will be scheduled to arrive outside of peak traffic hours, to help alleviate concerns during commute and school hours. Due to known traffic concerns, the construction team is encouraged to work four 10 hours shifts when available which will also help to avoid potential traffic impacts. This would result in the teams starting at 8am at the site and ending the day at 6:00p. Provided below is a screen-shot from 'Google Street View' that shows the available off street parking. As seen within the photo, 2/3 spots are available near the access point of the site. As long as these spots are not taken, the construction team and excavation team should be allowed to use these spaces as this is unpermitted parking. In the event that these spaces are taken, parking is proposed to take place along Center Blvd. below Sir Francis Drake. With construction teams being dropped off at the site and one team member meeting the others once reasonable parking is found.

5. During the Planning Commission hearing from January 15th its was brought to the attention of the Planning Commission that neighbors along Willow Avenue considered the home at 164 Willow Avenue to be over-built for the intended lot, and their opinion was that such a lot was developed with a 'summer cabin' as its intended building. While the definition of a 'summer cabin' does not dictate size, as it draws more attention to its use, this proposed development is minimal with only 1,063 sq. ft. of livable space allotted. This size home is similar to other homes along Willow Avenue, and minimally develops a lot that could have been developed to serve a multi-family dwelling which would've have significantly increased construction on-site. The concern regarding the size of the structure arose from the combined side-yard setback not being accomplished and requiring a variance. The combined side-yard setback of 20' feet is rather hard to accomplish considering the lot-size and shape. The lot is only 40' at it widest point, which results in a buildable area that is around 30' wide when five foot side-yard setbacks are maintained. With the garage being 20' wide the additional 5' is maintained at the south side, but is not maintained along the north side due to the proposed stairs. The reduction of 2' from the house would not serve purpose as clearances for the bathroom and stairs would become tighter and would then create issues with conforming to the CRC requiring a greater redesign. This redesign would also require the kitchen and bathroom to be further reconsidered, as the existing 4' clearance from the stairs would not be kept causing the bathroom to change direction. This change in bathroom direction then requires the kitchen to be rethought so that the kitchen is not directly across from the 1st bathroom doorway. The change would also affect the upstairs bedrooms, rendering one of the bedrooms unusable per the CRC, as the interior dimension of the 3rd room would be less than 7' in one direction. This reduction of 2 feet also creates a greater parking issues by limiting the garage to 17'+/- from inside wall to inside wall which makes it difficult to use the garage for two cars, minimum parking space requirements are 9x19 which is already tight as shown on sheet A3.1. Furthermore, by reducing the house footprint by 2', the length and retaining walls required to support the house would increase causing further disturbance to vegetation up-hill, which would create issues with saving the Oak Tree previously mentioned within this document.

Please let me know if you have any additional questions. The design team looks forward to the meeting on the 19th.

Best Regards,

Ryan Connelly

G-Design, LLC. (Design Firm)

Drafter/Designer

Gfamilyconstruction.com (Website – check us out)

ryan@gdesignpro.com (Email)

615 B Street, Suite 1B, San Rafael, CA 94901 (Office)

415-721-7340 (Design)

415-444-0573 (Office)



"A building is not just a place to be but a way to be."

-Frank Lloyd Wright-

From: Linda Neal <lneal@townoffairfax.org>

Date: Tuesday, March 10, 2015 at 9:59 AM

To: Ryan Connelly <ryan@gdesignpro.com>

Subject: 164 Willow

RESOLUTION NO. 14-16

A Resolution of the Fairfax Planning Commission Approving a Hill Area Residential Development permit, Excavation Permit, Design Review and Variances for a New Residence at 164 WILLOW AVENUE

WHEREAS, the Town of Fairfax has received an application to construct a 1,461 square foot single-family residence including a 415 square foot garage on lot 38 of the P.H. Jordan Subdivision of Ridgeway Park; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on December 18th January 15, 2014 and again on March 19th, 2015 at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission determined that the proposed residence complies with the Hill Area Residential Development Overlay Ordinance, Excavation Ordinance, and Design Review Ordinance and Variance Ordinance; and

WHEREAS, based on the plans and other documentary evidence in the record, as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary to approve the project.

WHEREAS, the Commission has made the following findings:

1. The proposed residence conforms to the regulations set forth in the Hill Area Residential Development Ordinance, Town Code Chapter 17.072 and the Excavation Ordinance, Chapter 12.20 and the Design Review Ordinance, Chapter 17.020; and
2. The proposed development harmonizes with the surrounding residential development, meets the design review criteria and does not result in the deterioration of significant view corridors.
3. The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the area.
4. The exterior appearance of the residence will maintain a low roofline in compliance with the 28.5 foot height limit set forth in Town Code §17.084.060(A)(2).
5. The residence has been designed utilizing exterior colors and materials that are similar to the surrounding hillsides and/or compatible with the color palettes of the neighboring homes; and
6. The proposed development is consistent with the General Plan, other adopted codes and policies of the Town of Fairfax, and is consistent with the purpose and intent of this ordinance.

7. The site planning preserves identified natural features.
8. Based on the soils report finding, the site can be developed without geologic, hydrologic or seismic hazards.
9. Vehicular access and parking are adequate.
10. The Town Engineer, after reviewing the body of submitted information, including geotechnical and hydrology report, survey and topographic information and the development plans has determined that, a) the health safety and welfare of the public will not be adversely affected; b) adjacent properties are adequately protected by project investigation and design from geologic hazards as a result of the work; c) adjacent properties are adequately protected by project design from drainage and erosion problems as a result of the work; and d) the amount of the excavation or fill proposed is not more than is required to allow the property owner substantial use of his or her property; and
11. The visual and scenic enjoyment of the area by others will not be adversely affected by the project more than is necessary;
12. Natural landscaping will not be removed by the project more than is necessary;
13. The time of year during which construction will take place is such that work will not result in excessive siltation from storm runoff nor prolonged exposure of unstable excavated slopes.
14. The requested 2 foot variance from the required 20 foot combined side setback is similar to variances previously granted to other property owners in the vicinity, will not have a significant impact on immediate neighbors, will not impact the general public and is the minimum necessary to allow reasonable development of the site.
15. The Variance allowing the driveway retaining walls to exceed the permitted 4 and 6 foot height limits necessary to provide the required parking and access to the house and they will have minimal visual impact on the neighbors because they are below grade.
16. Oak Tree # 22, as depicted and discussed in the February 6, 2014 report by Dan McKenna, ISA Certified Arborist and again in the peer review of that report by Nadia Alquaddoomi, ISA Certified Arborist, is, is a heritage tree as defined in the Town Tree Ordinance (Town Code Chapter 8.36.020) and has been deemed by the Planning Commission and the Willow Avenue neighborhood also a "Specimen" tree that makes a significant aesthetic and environmental contribution to the neighborhood. Therefore, the requested Parking Variance to allow the guest parking space to be in tandem with both the main parking spaces in the garage so as to maintain tree # 22 is the special circumstance applicable to the site that warrant approval of the parking exception. The revised parking plan will not constitute a grant of special privilege because the required

number and size of parking spaces is still being provided in compliance with the Parking Ordinance, Town Code Chapter 17.17.052. The strict application of the parking regulations limiting tandem parking would create a hardship for the neighborhood and the applicant, resulting in a project redesign that would compromise the health of a significant neighborhood heritage/specimen oak tree (# 22). The granting of the exception will not be detrimental to the general public because the project will still enable three vehicles to park off street as required by the Town Code and the granting of the variance will not have a significant impact of future traffic volumes in the neighborhood, will not result in the parking or loading of vehicles on public streets in a manner that will obstruct the free flow of traffic and will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Ordinance, Town Code Title 17.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. Prior to issuance of the any building permit to start construction the following shall be provided to the Town and shall be reviewed and approved by the Town Attorney and/or Town Engineer:
 - A document which shall be recorded after Town approval setting forth a maintenance easement for the Town along the property frontage.
 - An agreement between the owner(s) of 168/170 Willow Avenue and the project proponent indicating how the duplex improvements that are located on the project site will be treated.
2. The applicant shall comply with all the recommendations for maintaining the health of the oak trees labeled tree # 6 and # 22 on page 6 of the Vegetation Fuels Management Plan prepared by Arborist Dan McKenna dated February 6, 2014. All the mitigation measures further described in the peer review arborist report by Nadia Alquaddoomi dated 2/9/15 for oak tree # 22 and for the neighboring 2 oak trees south of the property at 160 Willow Avenue.
4. Mitigation measures to minimize the visual impacts of the driveway retaining walls, including the planter shown on page A.2.1 of the plans revised 2/9/15, on the street façade will be included in the construction drawings and will be subject to the review and approval of the Director of Planning and Building Services prior to issuance of the building permit.
3. The property boundaries shall be staked by the surveyor prior to the start of construction and the foundation location shall be certified and the field and in a signed stamped letter to the Town as being per the approved plans presented to the commission prior to the foundation concrete pour.
4. This approval is limited to the development illustrated on the plans prepared by

David Grabham, G-Family Construction, dated 7/3/14 pages A.1.1, A.2.1 (revised 10/31/14), A.2.1 revised 2/9/15, A.2.2, A.3.1, A.3.2, A.4.1, A.4.2, A.4.3 and A.5.1 (revised 10/31/14, topographic survey by Greg Cook, Surveyor, pages 1 and 2, dated 11/6/14, engineering drawings by LTD Engineering, Inc, including the preliminary grading and drainage plans, pages C-1 through C-4 dated 6/30/14 except page C-2 which was revised 10/30/14, and Vegetative Management Plan prepared by Dan McKenna, certified arborist, dated 2/6/14 and peer review arborist report by Naomi Alquaddoomi, ISA Certified Arborist dated 2/9/15.

5. Prior to issuance of any of the residence building permits the applicant or his assigns shall:

a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:

- Construction delivery routes approved by the Department of Public Works.
- Construction schedule (deliveries, worker hours, etc.)
- Notification to area residents
- Emergency access routes
- Parking plan to minimize the impacts of contractor/employee vehicles and construction equipment on neighborhood parking

b. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).

c. Submit a cash deposit, bond or letter of credit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible damage to public roadways. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Town Engineer. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.

d. The foundation and retaining elements shall be designed by a structural engineer certified as such in the state of California. Plans and calculations of the foundation and retaining elements shall be stamped and signed by the structural engineer and submitted to the satisfaction of the Plan Checker.

e. The grading, foundation, retaining, and drainage elements shall also be stamped and signed by the site geotechnical engineer as conforming to the recommendations made by the project engineer.

f. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the development conformance with their recommendations. The residence shall be provided with

sprinkler system that complies with the requirements of the Ross Valley Fire Authority.

g. Submit the record of survey with the building permit plans.

7. During the construction process the following shall be required:

a. The geotechnical engineer shall be on-site during the grading process (if there is any grading remaining to be done) and shall submit written certification to the Town Staff that the grading has been completed as recommended prior to installation of foundation and/or retaining forms and piers.

b. Prior to the concrete form inspection by the building official, the geotechnical and structural engineers shall field check the forms of the foundations and retaining elements and provide written certification to the Town staff that the work to this point has been completed in conformance with their recommendations and the approved building plans. The Building Official shall field check the concrete forms prior to the pour.

c. All construction related vehicles including equipment delivery, supply delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.

d. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.

8. Prior to issuance of an occupancy permit the following shall be completed:

a. The geotechnical engineer shall field check the completed project and submit written certification to the Town Staff that the foundation, retaining, grading and drainage elements have been installed in conformance with the approved building plans and the recommendations of the soils report.

b. The Planning Department shall field check the completed project to verify that all planning commission conditions have been complied with prior to issuance of the certificate of occupancy.

9. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.

10. a) The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.

b) Every effort shall be made to minimize the disturbance of dust, sand or other particulate matter during construction.

11. During construction the developer and all employees, contractor's and subcontractor's must comply with all requirements set forth in Ordinance # 637

(Chapter 8.26 of the Town Code), "Storm Water Management and Discharge Control Program."

12. Notwithstanding section # 17.38.050(A) of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of Application # 14-47. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 14-47 will result in the job being immediately stopped and red tagged.

13. Any damages to Willow Avenue or public roadways used to access the site resulting from construction activities shall be the responsibility of the property owner.

14. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.

15. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.

16. The applicant shall comply with any and all the conditions of the Marin Municipal Water District, Ross Valley Sanitary District, Ross Valley Fire Department, Fairfax Public Works Department and Fairfax Building Department.

17. The applicant must comply with all outside agency conditions unless a specific

agency waives their conditions in a written letter to the Department of Planning and Building Services.

18. Prior to the start of excavation Dan McKenna, project arborist shall inspect the site to verify that the mitigation measures required for all potentially impacted trees are correctly in place. He shall provide a letter to the Town indicating that the site preparation complies with recommendations made in both his report and the peer review arborist report prior to any excavation occurring on the site.

19. The Construction Traffic Plan described in the letter dated 2/9/15 and the e-mail dated 3/10/15 from G-Family Construction shall be adhered to during construction. Failure to adhere to the plan shall constitute a violation of a condition of approval and may result in the Use Permit being revisited by the Planning Commission if compliance cannot be achieved by staff action.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Hill Area Residential Development permit, Excavation Permit, Variances and Design Review permit for the proposed residence in in conformance with the 2010 – 2030 Fairfax General Plan and the Fairfax Zoning Ordinance, Town Code Title 17; and

Construction of the residence can occur without causing significant impacts on neighboring residences and the environment.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the ~~18th day of December, 2014~~ 19th day of March, 2015, by the following vote:

AYES:

NOES:

Chair, Brannon Ketcham Phil Green

Attest:

Jim Moore, Director of Planning and Building Services